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March 6, 2014

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463
VIA FACSIMILE: (202) 219-3923

Re: MUR 6780 - Response to Complaint from Terri Lynn Land and Terri Lynn Land for Senate

Dear Mr. Jordan:

We are writing this letter on behalf of our clients, Terri Lynn Land, Terri Lynn Land for Senate, and Kathy Vosbury in her official capacity as Treasurer, in response to the Complaint filed by the Michigan Democratic Party ("Complainant") dated February 7, 2014, and designated MUR 6780. The Complaint fails on its face to allege a violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or "Act"), and consequently should be immediately dismissed.

The Complaint alleges that Land violated the Act by coordinating with "independent outside groups." This allegation is based on a brief statement in a campaign speech Land made to her supporters, where she stated;

But the reality is we've got new folks out there who are raising money. That's the Super PACs. Now this is a whole new world after, some of you remember, the Citizens United lawsuit had happened, which actually started here in Michigan. I don't know if some of you know that but that was originally here in Michigan, and that changed the dynamic of politics. It restricted the parties but yet let individuals and other raise resources to do that. *Our campaign's talked to a lot of those folks. They're committed to Michigan so I want you to understand that. This is not just about Michigan. The whole country is watching. They really want to support us here in Michigan. And again, if we can do this in Michigan that means they [unintelligible] in the other states.*

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TERRI LYNN LAND
FOR SENATE

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Land's statement that "our campaign's talked to a lot of those folks" is a far cry from the Complainant's exaggerated, if not fabricated, claim that Land "inadvertently revealed"¹ that she had "numerous"² and "substantial discussions"³ with outside groups and that she "requested and obtained their commitment to make expenditures on her behalf."⁴ In fact, there is nothing in Land's statement, or any other evidence provided by the Complainant, that would support such over-the-top, speculative assertions.

Moreover, Complainant's interpretation of the statement "the whole country is watching" as "possibly a reference to groups that are active in elections across the country"⁵ is absurd. The statement speaks for itself. The whole country is watching the Michigan Senate race as it is one of the most competitive elections in the country this cycle.⁶ As such, it is no surprise that such groups would "really want to support us here in Michigan." The Complainant's conclusion that "Land, or other representatives of her campaign had meetings with groups...and secured their commitment to run ads to help in the Michigan Senate race" is entirely without merit.

In an effort to buttress its unfounded claims, the Complaint attempts to link Land's statement to the activities of four outside groups in the fall of 2013, including PURE PAC, Americans for Prosperity, the Republican National Committee ("RNC"), and the National Republican Senatorial Committee ("NRSC"), without even asserting, much less providing, conclusive evidence that Land or anyone from the Land campaign actually had any contact with those groups with respect to their activities.⁷ Tellingly, the Complaint did not name those outside groups as Respondents in this matter.

The Act does not ban general discussions between a candidate, a candidate's campaign and individuals associated with outside groups, such as national party committees or Super PACs. Rather, the Act provides that an expenditure by an outside group may be deemed a contribution to a candidate if the expenditure was "made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents." 2 U.S.C. § 441a(a)(7). The Commission's regulations implementing this statutory provision provide that a "communication is coordinated with a candidate, a candidate's authorized committee" or their agents, if the communication meets a three-prong test—payment, content and conduct. 11 C.F.R. § 109.21. All three prongs of the

¹ Compl. at 1.

² *Id.*

³ *Id.* at 7.

⁴ *Id.*

⁵ *Id.* at 2.

⁶ See "The Hotline's Senate Rankings: Republicans in Command," Feb. 27, 2014 at <http://www.nationaljournal.com/hotline-on-call/i-the-hotline-i-s-senate-race-rankings-republicans-in-command-20140227>.

⁷ As a first-tier Senate candidate, it is only natural that Land and her representatives may have had meetings with officials of the RNC and the NRSC, and it is also natural that those entities may be engaged in the election; however, Complainant provides no evidence that any communications were made at the request or suggestion of Land or the Land campaign or that the Land or Land campaign assented to any suggestions made by the RNC or NRSC with respect to these or any other communications.

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test must be met in order for the communication to be deemed coordinated and an in-kind contribution.

The Complaint points to television and radio ads, phone calls, and flyers that were paid for by the four outside groups, thereby meeting the payment prong of the test. Leaving aside whether any or all of these communications actually meet the content prong,⁸ it is the third prong, the conduct prong, that is at issue here. The conduct prong, in relevant part, is satisfied if one of the following factors is met:

- If the communication is created, produced or distributed at the request or suggestion of the candidate, the candidate's committee, or their agents, or the communication is created, produced or distributed at the suggestion of the person paying for the communication and the candidate, the candidate's committee, or their agents assent to the suggestion;
- If the candidate or the candidate's authorized committee is materially involved in decisions regarding the content, intended audience, means or mode of the communication, specific media outlet used, the timing or frequency or size or prominence of a communication; or
- If the communication is created, produced or distributed after one or more substantial discussions about the communication between the person paying for the communication or the employees or agents of that person and the candidate, the candidate's committee, or their agents. 11 C.F.R. § 109.21(d).

The Complaint provides no evidence that any of the communications were made at the request or suggestion of Land or the Land campaign, or that Land or the Land campaign assented to any suggestion by the outside groups with respect to the communications. Nor is there any evidence that Land or the Land campaign were materially involved in the decisions regarding the communications or that there were substantial discussions between Land and any of the outside groups. Her comment that "[her] campaign's talked to a lot of those folks" does not in any way suggest or imply that there was a discussion, let alone "numerous" and "substantial discussions" with any of these groups about their communications, or that she was materially involved in any decisions about their communications.

Such politically motivated, speculative assertions may not provide the basis to find "reason to believe" Land violated the Act. The Commission may find "reason to believe" only if a complainant sets forth sufficient specific facts, which, if proven true, would constitute a violation of FECA. *See* MUR 4960 (Hillary Clinton), Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas (Dec. 21, 2001). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true, and the Commission will dismiss

⁸ PURE PAC filed 24/48 Hour Notices of Independent Expenditures for the communications referenced in the Complaint. We do not express any opinion at this time or concede that any of the communications paid for by PURE PAC or the other groups referenced in the Complaint contain express advocacy or otherwise meet the content standard.

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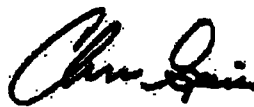
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a complaint if it consists of factual allegations that are refuted with sufficiently compelling evidence. *Id.*

The Michigan Democratic Party's Complaint in this matter is asking for a politically-motivated fishing expedition based entirely on malicious speculation. We therefore respectfully request that the Commission recognize the legal and factual insufficiency of the complaint on its face and immediately dismiss it.

Thank you for your consideration of this matter, and please do not hesitate to contact me directly at (202) 572-8663 with any questions.

Respectfully submitted,



Charles R. Spies
Counsel to Terri Lynn Land and Terri Lynn Land
for Senate

Enc.

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BEFORE THE FEDERAL ELECTION COMMISSION STATEMENT OF DESIGNATION OF COUNSEL

MUR # **6780**

Name of Counsel: Charles R. Spies:
Clark Hill PLC
601 Pennsylvania Avenue, NW
North Building, Suite 1000
Washington, DC 20004

Telephone: (202) 572-8663
Fax: (202) 572-8683

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

3-4-2014
Date

Terri Lynn Land
Respondent/Client Signature

Treasurer
Title

Respondent/Client: Terri Lynn Land for Senate
PO Box 308
Grandville, MI 49418

Telephone - Home:

Business: 586-909-6279

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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BEFORE THE FEDERAL ELECTION COMMISSION
STATEMENT OF DESIGNATION OF COUNSEL

MUR # 6780

Name of Counsel: Charles R. Spies
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Telephone: (202) 572-8663
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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date April 3 2014

Respondent/Client Signature

Candidate
Title

Respondent/Client: Terri Lynn Land

Byron Center, MI 48315

Telephone - Home:

Business:

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BEFORE THE FEDERAL ELECTION COMMISSION STATEMENT OF DESIGNATION OF COUNSEL

MUR # 6780

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

Respondent/Client Signature

Title

Respondent/Client:

Terri Lynn Land for Senate
PO Box 308
Grandville, MI 49418

and

Kathy Vosburg
PO Box 308
Grandville, MI 49418

Telephone - Home:

Business: 586-909-6279

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